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Committee on the Environment, Public Health and Food Safety

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*****I**

DRAFT REPORT

on the Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/92/EU of the assessment of the effects of certain public and private projects on the environment

(COM(2012)0628 – C7-0367/2012 – 2012/0297(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Andrea Zanoni

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in bold italics. Highlighting in normal italics is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in bold. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/92/EU of the assessment of the effects of certain public and private projects on the environment

(COM(2012)0628 – C7-0367/2012 – 2012/0297(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0628),
 - having regard to Article 294(2) and Article 192 (1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0367/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 13 February 2013¹,
 - having regard to the opinion of the Committee of the Regions of ...²
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Transport and Tourism and the Committee on Petitions (A7-0000/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

² Not yet published in the Official Journal.

Amendment 1

Proposal for a directive Recital 13

Text proposed by the Commission

(13) Experience has shown that ***in*** cases of civil emergency compliance with the provisions of Directive 2011/92/EU may have adverse effects, and provision should therefore be made to authorise Member States not to apply that Directive ***in appropriate cases***.

Amendment

(13) Experience has shown that, ***as regards the response given to*** cases of civil emergency, compliance with the provisions of Directive 2011/92/EU may have adverse effects, and provision should therefore be made, ***in specific cases***, to authorise Member States not to apply that Directive ***to projects the sole aim of which is to respond to such emergencies, in order to protect human life and the environment from damage caused by natural or man-made disasters***.

Or. it

Justification

The unjustified use of exemptions from the EIA directive, which has often been practised by certain Member States in the past, should be avoided. The proposed wording aims to specify and circumscribe the emergency situations in which Member States can decide not to conduct environmental impact assessments for projects that are solely designed to respond to serious civil emergencies.

Amendment 2

Proposal for a directive Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a). Experience has shown that specific rules need to be introduced to avoid the conflict of interest that can arise between the developer of a project that is subject to environmental impact assessment and the competent authorities referred to in Article 1(2)(f) of Directive 2011/92/EU. In particular, the competent authorities should not coincide with the developer nor in any way be dependent on, linked to

or subordinate to the developer. For the same reasons, an authority that has been designated as a competent authority under Directive 2011/92/EU should not be able to play that role in relation to projects that are subject to environmental impact assessment which the authority itself has commissioned.

Or. it

Justification

Experience acquired in a number of Member States has shown that specific rules need to be introduced to put an end to the serious issue of conflicts of interest, in order to ensure that the aim of the environmental impact assessment procedure is effectively achieved. The competent authorities charged with carrying out assessments must not, under any circumstances, overlap with developers nor be dependent on or subordinate to them.

Amendment 3

Proposal for a directive Recital 18

Text proposed by the Commission

(18) The environmental report of a project to be provided by the developer should include an assessment of reasonable alternatives relevant to the proposed project, including the likely evolution of the existing state of the environment without implementation of the project (baseline scenario), as a means to improve quality of the assessment process and to allow integrating environmental considerations at an early stage in the project's design.

Amendment

(18) The environmental report of a project to be provided by the developer should include an assessment of reasonable alternatives relevant to the proposed project, including the likely evolution of the existing state of the environment without implementation of the project (baseline scenario), as a means to improve quality of the **comparative** assessment process and to allow integrating environmental considerations at an early stage in the project's design, **in order to enable the most sustainable choice, with the least environmental impact, to be made.**

Or. it

Justification

The aim of the assessment of possible reasonable alternatives to the proposed project is to

enable an informed comparative choice to be made of the most sustainable and environmentally friendly alternative.

Amendment 4

Proposal for a directive Recital 19

Text proposed by the Commission

(19) Measures should be taken to ensure that the data and information included in the environmental reports, in accordance with Annex IV of Directive 2011/92/EU are complete and of sufficiently high quality. ***With a view to avoiding duplication of the assessment, Member States should take account of the fact that environmental assessments may be carried out at different levels or by different instruments.***

Amendment

(19) Measures should be taken to ensure that the data and information included in the environmental reports, in accordance with Annex IV of Directive 2011/92/EU are complete and of sufficiently high quality.

Or. it

Justification

Developers must be prevented from excluding the mandatory inclusion in the environmental report of the alternatives to the proposed project simply on the grounds that the assessment of alternatives was supposed to have been conducted at the planning stage.

Amendment 5

Proposal for a directive Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a). It should be ensured that the experts who check the environmental reports have, due to their qualifications and experience, the necessary technical expertise to carry out the tasks set out in Directive 2011/92/EU in a scientifically objective manner and in total independence from the developer and the competent authorities themselves.

Justification

The absolute independence of the experts appointed by the competent authorities to verify the information set out in the environmental report is a prerequisite for ensuring a quality EIA. Such verification must be scientifically objective and must not undergo any interference or undue influence.

Amendment 6**Proposal for a directive****Recital 21***Text proposed by the Commission*

(21) It is appropriate to establish common minimum requirements for the monitoring of the significant adverse effects of the **construction** and operation of projects to ensure a common approach in all Member States and to ensure that, after the implementation of mitigation and compensation measures, no impacts exceed those initially predicted. Such monitoring should not duplicate or add to monitoring required pursuant to other Union legislation.

Amendment

(21) It is appropriate to establish common minimum requirements for the monitoring of the significant adverse effects of the **implementation** and *management* of projects to ensure a common approach in all Member States and to ensure that, after the implementation of mitigation and compensation measures, no impacts exceed those initially predicted. Such monitoring should not duplicate or add to monitoring required pursuant to other Union legislation. ***Where the outcome of the monitoring indicates the presence of unforeseen adverse effects, provision should be made for appropriate corrective action to remedy the problem, in the form of additional mitigation and/or compensation measures.***

Justification

The introduction of monitoring into the new EIA directive is very important. To prevent such ex-post monitoring from being an end in itself, it is, however, necessary to establish that, where the mitigation and compensation mechanisms are ineffective, the developer must take responsibility for further remedial action in order to correct any unforeseen adverse effects of the authorised project.

Amendment 7

Proposal for a directive Recital 22

Text proposed by the Commission

(22) Time-frames for the various steps of the environmental assessment of projects should be introduced, in order to stimulate more efficient decision-making and increase legal certainty, also taking into account the nature, complexity, location and size of the proposed project. Such time-frames should under no circumstances compromise the high standards for the protection of the environment, particularly those resulting from other Union environmental legislation, and effective public participation and access to justice.

Amendment

(22) Time-frames for the various steps of the environmental assessment of projects should be introduced, in order to stimulate more efficient decision-making and increase legal certainty, also taking into account the nature, complexity, location and size of the proposed project. Such time-frames should under no circumstances compromise the high standards for the protection of the environment, particularly those resulting from other Union environmental legislation, and effective public participation and access to justice, ***and any extensions should be granted only in exceptional cases.***

Or. it

Justification

A clear determination of the time-frame is important to ensure legal certainty for all those involved in the environmental impact assessment process. It is therefore advisable to specify that any extensions to the time-frame may be granted only exceptionally.

Amendment 8

Proposal for a directive Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a). The production thresholds laid down for crude oil and natural gas in Annex I to Directive 2011/92/EU do not take into account the specificity of daily production levels of non-conventional hydrocarbons, which are often highly variable and lower. Accordingly, despite their environmental impact, projects concerning such hydrocarbons are not

subject to compulsory environmental impact assessment. In accordance with the precautionary principle, as called for by the European Parliament resolution of 21 November 2012 on the environmental impacts of shale gas and shale oil extraction activities (P7_TA (2012) 0443), it would be appropriate to include non-conventional hydrocarbons (shale gas and oil, 'tight gas, 'coal bed methane'), defined according to their geological characteristics, in Annex I to Directive 2011/92/EU, regardless of the amount extracted, so that projects concerning such hydrocarbons are systematically made subject to environmental impact assessment.

Or. it

Justification

The current directive does not take account of the daily production levels of non-conventional hydrocarbons. This means that despite their environmental impact, the relevant projects are not subject to mandatory EIA. In accordance with the precautionary principle, and as requested by Parliament in its resolution of 21 November 2012, it is proposed that non-conventional hydrocarbons (shale gas and oil and 'tight gas in the first paragraph, 'coal bed methane' in the second paragraph), be included in Annex I, so that the relevant projects are systematically made subject to EIA.

Amendment 9

Proposal for a directive Recital 24

Text proposed by the Commission

(24) The new provisions should also apply to projects for which the request for development consent is introduced before the time-limit for transposition but for which the environmental **impact assessment** has not been **concluded** before that date.

Amendment

(24) The new provisions should also apply to projects for which the request for development consent is introduced before the time-limit for transposition but for which the environmental **report** has not been **submitted** before that date.

Or. it

Justification

In order to ensure legal certainty and avoid excessive burdens on operators, where an environmental impact assessment procedure is already at an advanced stage, with the environmental report already filed, it should be able to be concluded under the current law, without having to start all over again under the new rules.

Amendment 10

Proposal for a directive Recital 26

Text proposed by the Commission

(26) In order to adjust the selection criteria and the information to be provided in the environmental report to the latest developments in technology and relevant practices, the power to adopt acts, in accordance with Article 290 of the Treaty on the Functioning of the European Union, should be delegated to the Commission in respect of Annexes II.A, III and IV of Directive 2011/92/EU. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

Amendment

(26) In order to adjust the selection criteria and the information to be provided in the environmental report to the latest developments in technology and relevant practices, the power to adopt acts, in accordance with Article 290 of the Treaty on the Functioning of the European Union, should be delegated to the Commission in respect of Annexes II.A, III and IV of Directive 2011/92/EU. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

Or. it

(See amendment to Recital 27)

Justification

A technical amendment, to bring the wording of the recital into line with latest practice.

Amendment 11

Proposal for a directive Recital 27

Text proposed by the Commission

Amendment

(27) The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

deleted

Or. it

(See amendment to Recital 26)

Amendment 12

Proposal for a directive Article 1 - point 1 - subpoint b Directive 2011/92/EU Article 1 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) "environmental impact assessment" shall mean the process of preparing an environmental report, carrying out consultations (including with the public concerned and the environmental authorities), the assessment by the competent authority, taking into account the environmental report and the results of the consultations in the development consent procedure as well as the provision of information on the decision in accordance with Articles 5 to 10.

(g) "environmental impact assessment" shall mean the process of preparing an environmental report, carrying out consultations (including with the public concerned and the environmental authorities), the assessment by the competent authority, taking into account the environmental report and the results of the consultations in the development consent procedure as well as the provision of information on the decision in accordance with Articles 5 to 10.

Or. it

Justification

Linguistic amendment to Italian version – does not affect English version.

Amendment 13

Proposal for a directive

Article 1 – point 1 – subpoint b a (new)

Directive 2011/92/EU

Article 1– paragraph 2 – point g a

Text proposed by the Commission

Amendment

(ba) in paragraph 2, the following definition is added:

"(ga) "biodiversity" shall mean the variability among living organisms from all sources including, inter alia, all species of flora and fauna and their habitats, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, including diversity within species, between species and of ecosystems."

Or. it

Justification

The principle according to which the significant direct and indirect effects of a given project on biodiversity need to be assessed is highly welcomed. For reasons of legal certainty, therefore, it is proposed that the definition of biodiversity be based on Article 2 of the United Nations Convention on Biological Diversity.

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point c

Directive 2011/92/EU

Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects having as their sole purpose national defence or the response to civil emergencies, if they deem that such application would have an adverse effect on those purposes.

3. Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects having as their sole purpose national defence or the response to civil emergencies, ***in order to protect human life and the environment from damage caused by natural or man-made disasters,***

if they deem that such application would have an adverse effect on those purposes.

Or. it

Justification

The unjustified use of exemptions from the EIA directive, which has often been practised by certain Member States in the past, should be avoided. The proposed wording aims to specify and circumscribe the emergency situations in which Member States can decide not to conduct environmental impact assessments for projects that are solely designed to respond to serious civil emergencies. The other change to the wording does not affect the English version.

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point c

Directive 2011/92/EU

Article 1 – paragraph 4

Text proposed by the Commission

4. This Directive shall not apply to projects the details of which are adopted by a specific act of national legislation, provided that the objectives of this Directive, including **that** of supplying information, are achieved through the legislative process. Every two years from the date specified in Article 2(1) of Directive XXX [OPOCE please introduce the n° of this Directive], Member States shall inform the Commission of any application which they have made of this provision.

Amendment

4. This Directive shall not apply to projects the details of which are adopted by a specific act of national legislation, provided that the objectives of this Directive, including **those** of supplying information, **consulting the public concerned and access to justice**, are achieved through the legislative process. Every two years from the date specified in Article 2(1) of Directive XXX [OPOCE please introduce the n° of this Directive], Member States shall inform the Commission of any application which they have made of this provision.

Or. it

Justification

In compliance with the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, public consultation and the possibility of judicial challenge must be included among the conditions necessary to be able to exempt projects, the details of which have been adopted by a specific act of national legislation, from environmental impact assessment under the EIA Directive.

Amendment 16

Proposal for a directive

Article 1 – point 1 – point c a (new)

Directive 2011/92/EU

Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(ca) the following paragraph 4a is added:

"4a. Member States shall designate the competent authority or authorities in such a way as to ensure their full independence in the performance of the duties assigned to them under this Directive. In particular, the competent authority or authorities shall be designated in such a way as to avoid any relationship of dependence, any links or subordination between them or their members and the developer. A competent authority may not perform its duties under this Directive in relation to a project which it has commissioned itself."

Or. it

Justification

Experience acquired in a number of Member States has shown that specific rules need to be introduced to put an end to the serious issue of conflicts of interest, in order to ensure that the aim of the environmental impact assessment procedure is effectively achieved. The competent authorities charged with carrying out assessments must not, under any circumstances, overlap with developers nor be dependent on or subordinate to them.

Amendment 17

Proposal for a directive

Article 1 – point 2

Directive 2011/92/EU

Article 2 – point 3 – paragraph 2

Text proposed by the Commission

Amendment

Under the coordinated procedure, the competent authority shall coordinate the various individual assessments required by

Under the coordinated procedure, the competent authority shall coordinate the various individual assessments required by

the Union legislation concerned and issued by *several* authorities, without prejudice to any provisions to the contrary contained in other relevant Union legislation.

the Union legislation concerned and issued by *various* authorities, without prejudice to any provisions to the contrary contained in other relevant Union legislation.

Or. it

Amendment 18

Proposal for a directive

Article 1 – point 2

Directive 2011/92/EU

Article 2 – paragraph 3 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

The Commission shall cooperate with the Member States and provide them with the necessary assistance in order to define and implement the coordinated or joint procedures pursuant to this article.

Or. it

Justification

The Commission should provide all the necessary assistance for an effective organisation of coordinated and joint procedures by the Member States.

Amendment 19

Proposal for a directive

Article 1 – point 2 a (new)

Directive 2011/92/EU

Article 2 – paragraph 4

Text proposed by the Commission

Amendment

(2a) In Article 2, paragraph 4 is replaced by the following:

“4. Without prejudice to Article 7, Member States may, in exceptional cases, exempt a specific project in whole or in part from the provisions laid down in this Directive.

In that event, the Member States shall:

(-a) consult the public concerned;

(a) consider whether another form of assessment would be appropriate;

(b) make available to the public concerned the information obtained under other forms of assessment referred to in point (a), the information relating to the exemption decision and the reasons for granting it;

(c) inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information made available, where applicable, to their own nationals.

The Commission shall immediately forward the documents received to the other Member States.

The Commission shall report annually to the European Parliament and to the Council on the application of this paragraph."

Or. it

Justification

In compliance with the Aarhus Convention, the amendment introduces the consultation of the public concerned as the first condition that Member States have to meet should they decide to exempt, in full or in part, a specific project from the provisions of this Directive.

Amendment 20

Proposal for a directive

Article 1 – point 3

Directive 2011/92/EU

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with

Amendment

The environmental impact assessment shall identify, describe *in detail* and assess in an appropriate manner, in the light of each individual case and in accordance with

Articles 4 to 11, the direct and indirect significant effects of a project on the following factors:

Articles 4 to 11, the direct and indirect significant effects of a project, **considered in its entirety**, on the following factors:

Or. it

Justification

The explicit requirement to describe a project and its effects in their entirety and in detail has been introduced in various parts of the text, in order to avoid one of the 'tricks' most often used by developers to evade the correct impact assessment procedure: splitting the work into separate lots in order to reduce its environmental impact.

Amendment 21

Proposal for a directive

Article 1 – point 3

Directive 2011/92/EU

Article 3 – point b

Text proposed by the Commission

Amendment

(b) land, soil, water, air and climate change;

(b) land, soil, **subsoil**, water, air and climate change;

Or. it

Justification

Experience has shown that it is not sufficient to provide that the impact assessment should identify the significant effects of a project on the soil and water in order to effectively protect deep water tables from possible contamination. It is therefore proposed that the text be supplemented with the explicit inclusion of subsoil among the environmental factors to be considered for the assessment.

Amendment 22

Proposal for a directive

Article 1 - point 4 - subpoint b

Directive 2011/92/EU

Article 4 – paragraph 5 – introductory part

Text proposed by the Commission

Amendment

5. The competent authority shall make its decision pursuant to paragraph 2, on the basis of the information provided by the

5. The competent authority shall make its decision pursuant to paragraph 2, on the basis of the information provided by the

developer *and* taking into account, where relevant, the results of studies, preliminary verifications or assessments of the effects on the environment arising from other Union legislation. The decision pursuant to paragraph 2 shall:

developer, taking into account *any comments made by the public and the local authorities concerned and*, where relevant, the results of studies, preliminary verifications or assessments of the effects on the environment arising from other Union legislation. The decision pursuant to paragraph 2 shall:

Or. it

Justification

In compliance with the Aarhus Convention, the competent authority must guarantee the transparency of the decision-making process. Therefore, the public and local authorities concerned must be involved from the start, at the preliminary stage of the screening procedure.

Amendment 23

Proposal for a directive

Article 1 - point 4 - subpoint b

Directive 2011/92/EU

Article 4 – paragraph 5 – point d

Text proposed by the Commission

Amendment

(b) be made available to the public.

(d) be made available to the public.

Or. it

Justification

Linguistic amendment to Italian version – does not affect English version..

Amendment 24

Proposal for a directive

Article 1 - point 4 - subpoint b

Directive 2011/92/EU

Article 4 – paragraph 6 – subparagraph 1

Text proposed by the Commission

Amendment

6. The competent authority shall make its decision pursuant to paragraph 2 within three months from the request for

6. The competent authority shall make its decision pursuant to paragraph 2 within three months from the request for

development consent and provided that the developer has submitted all the requisite information. Depending on the nature, complexity, location and size of the proposed project, the competent authority may extend that deadline by a further 3 months; in that case, the competent authority shall inform the developer of the reasons justifying the extension and of the date when its decision is expected.

development consent and provided that the developer has submitted all the requisite information. Depending on the nature, complexity, location and size of the proposed project, ***considered in its entirety***, the competent authority may ***exceptionally*** extend that deadline by a further 3 months; in that case, the competent authority shall inform the developer ***in writing*** of the reasons justifying the extension and of the date when its decision is expected, ***making available to the public the information referred to in Article 6(2)***.

Or. it

Justification

The legal certainty of the time-frame must be guaranteed: the decision to extend the three-month period must therefore only be possible in cases of an exceptional nature that are officially notified in writing, thereby ensuring the transparency of the procedure in compliance with the Aarhus Convention.

Amendment 25

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – point 1 – paragraph 1

Text proposed by the Commission

1. Where an environmental impact assessment must be carried out in accordance with Articles 5 to 10, the developer shall prepare an environmental report. The environmental report shall be based on the determination pursuant to paragraph 2 of this Article and include the information that may reasonably be required for making informed decisions on the environmental impacts of the proposed project, taking into account current knowledge and methods of assessment, the characteristics, technical capacity and location of the project, the characteristics

Amendment

1. Where an environmental impact assessment must be carried out in accordance with Articles 5 to 10, the developer shall prepare an environmental report. The environmental report shall be based on the determination pursuant to paragraph 2 of this Article and include the information that may reasonably be required for making informed decisions on the environmental impacts of the proposed project, taking into account current knowledge and methods of assessment, the characteristics, technical capacity and location of the project, the characteristics

of the potential impact, alternatives to the proposed project **and the extent to which certain matters (including the evaluation of alternatives) are more appropriately assessed at different levels including the planning level, or on the basis of other assessment requirements.** The detailed list of information to be provided in the environmental report is specified in Annex IV.

of the potential impact **and** alternatives to the proposed project. The detailed list of information to be provided in the environmental report is specified in Annex IV.

Or. it

Justification

The text proposed for deletion could have the effect of excluding the mandatory inclusion in the environmental report of the alternatives to the proposed project simply on the grounds that the assessment of alternatives was supposed to have been conducted at the planning stage. That would produce a risk of circumvention at this extremely significant stage of the procedure, which was recognised by the Commission itself in its report on the application and effectiveness of the EIA Directive of 23 July 2009 (COM(2009)378, section 3.2.2).

Amendment 26

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Those alternatives, including the assessment of the effects of the non-implementation of the project (baseline scenario), shall enable a comparative assessment to be made of the various solutions proposed in order to allow the most sustainable alternative, with the least environmental impact, to be chosen.

Or. it

Justification

It needs to be specified in the enacting terms that the purpose of assessing possible reasonable alternatives to the proposed project is to enable a comparative choice to be made of the most sustainable and environmentally friendly alternative (as correctly clarified in

paragraph 2 of Annex IV). The proposed wording clarifies that the assessment of these alternatives must also include that of the 'baseline scenario', or 'zero option', i.e. the non-implementation of the project.

Amendment 27

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

2. The competent authority, after having consulted the authorities referred to in Article 6(1) and the developer, shall determine the scope and level of detail of the information to be included by the developer in the environmental report, in accordance with paragraph 1 of this Article. In particular, it shall determine:

Amendment

2. The competent authority, after having consulted the authorities referred to in Article 6(1) and the developer, shall determine the scope and level of detail of the information to be included by the developer in the environmental report, in accordance with paragraph 1 of this Article. In particular, it shall determine:

Or. it

Justification

Linguistic amendment to Italian version – does not affect English version.

Amendment 28

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The competent authority may also seek assistance from **accredited and** technically competent experts referred to in paragraph 3 of this Article. Subsequent requests to the developer for additional information may only be made if these are justified by new circumstances and duly explained by the competent authority.

Amendment

The competent authority may also seek assistance from technically competent experts referred to in paragraph 3 of this Article. Subsequent requests to the developer for additional information may only be made if these are justified by new circumstances and duly explained by the competent authority.

Justification

The mandatory introduction of an accreditation system for technically competent experts would involve considerable implementation difficulties for the Member States and for economic operators, who often already have valid internal expertise.

Amendment 29

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 3 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

a) the developer shall ensure that the environmental report is prepared by **accredited and** technically competent experts **or**

(a) the developer shall ensure that the environmental report is prepared by technically competent experts **and**

Justification

To improve the quality of the environmental report, also due to the abolition of the accreditation system, it would be advisable for the report to be both drawn up and verified by technically competent experts.

Amendment 30

Proposal for a directive

Article 1 – point 5

Direttiva 2011/92/UE

Article 5 – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

b) the competent authority shall ensure that the environmental report is verified by **accredited and** technically competent experts and/or committees of national experts.

(b) the competent authority shall ensure that the environmental report is verified by technically competent experts and/or committees of national experts.

Amendment 31

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Where **accredited and** technically competent experts assisted the competent authority to prepare the determination referred to in Article 5(2), the same experts shall not be used by the developer for the preparation of the environmental report.

Amendment

Where technically competent experts assisted the competent authority to prepare the determination referred to in Article 5(2), the same experts shall not be used by the developer for the preparation of the environmental report.

Or. it

Amendment 32

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – point 3 – paragraph 3

Text proposed by the Commission

The detailed arrangements for the use and selection of **accredited and** technically competent experts (for example qualifications required, assignment of evaluation, **licensing, and disqualification**), shall be determined by the Member States.

Amendment

The detailed arrangements for the use and selection of technically competent experts (for example qualifications **and experience** required, assignment of evaluation), shall be determined by the Member States. ***In any case, the technically competent experts and committees of national experts must provide appropriate guarantees of competence and impartiality when verifying environmental reports or other environmental information in accordance with this Directive, ensuring that their assessment is scientifically objective and independent, without any interference or influence from the competent authority, the developer or the national authorities.***

Justification

The absolute independence of the experts appointed by the competent authorities to verify the information set out in the environmental report is a prerequisite for ensuring a quality EIA. Such verification must be scientifically objective and must not undergo any interference or undue influence.

Amendment 33

Proposal for a directive

Article 1 – point 6 – point -a (new)

Directive 2011/92/EU

Article 6 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

-a) in paragraph 2, the introductory part is replaced by the following:

“2. The public shall be informed, by public notices and by other appropriate means such as electronic media where available, of the following matters early in the environmental decision-making procedures referred to in Article 2(2) and, at the latest, as soon as information can reasonably be provided:”

Justification

The proposed amendment changes the word 'or' into 'and' so that the public information is provided both through public notices and through electronic media, to which huge numbers of people have access, but not necessarily all those likely to be affected.

Amendment 34

Proposal for a directive

Article 1 – point 6 – point -a a (new)

Directive 2011/92/EU

Article 6 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(-aa) In paragraph 2, point (f) is replaced by the following:

“(f) an indication of the times and places at which, and the means by which, the relevant information will be made available, providing the opportunity for the public concerned to obtain information also in places near the area of implementation of the project as well as in the offices responsible under the competent authority;”

Or. it

Justification

The final phrase should be added to provide for measures that encourage real, not just theoretical, access of the public concerned to environmental information. As called for by the Commission in its report on the application and effectiveness of the EIA Directive of 23 July 2009 (COM(2009)378, section 3.3), the amendment seeks to remove a common barrier to real public participation.

Amendment 35

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be taken into consideration in the development consent procedure. To this end, the decision to grant development consent shall contain the following information:

1. The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be taken into consideration ***and assessed in detail*** in the development consent procedure. To this end, the decision to grant development consent shall contain the following information:

Or. it

Amendment 36

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) a summary of the **comments** received pursuant to Articles 6 and 7;

Amendment

(c) a summary of the **observations and opinions** received pursuant to Articles 6 and 7;

Or. it

Justification

The proposed wording appears to be more appropriate for defining the participation and contribution of the public.

Amendment 37

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. If the consultations and the information gathered pursuant to Articles 5, 6 and 7 conclude that a project will have significant adverse environmental effects, the competent authority, as early as possible and in close cooperation with the authorities referred to in Article 6(1) and the developer, shall consider whether the environmental report referred to in Article 5(1) should be revised and the project modified to avoid or reduce these adverse effects and whether additional mitigation or compensation measures are needed.

Amendment

2. If the consultations and the information gathered pursuant to Articles 5, 6 and 7 conclude that a project will have significant adverse environmental effects, the competent authority, as early as possible and in close cooperation with the authorities referred to in Article 6(1) and the developer, shall consider **whether to refuse development consent or** whether the environmental report referred to in Article 5(1) should be revised and the project modified to avoid or reduce these adverse effects and whether additional mitigation or compensation measures are needed.

Or. it

Justification

The amendment makes it clear that there is a concrete possibility that the competent authority may not grant consent for a project where the assessment process has ascertained that the project in question will have significant adverse environmental effects. The current wording is likely to endorse interpretations which could devalue the role of the EIA, which is to ensure the environmental sustainability of authorised projects.

Amendment 38

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

At the revision stage of the environmental report, if there is one, the information to the public referred to in Article 6(2) must nonetheless be guaranteed.

Or. it

Justification

The environmental report underpins the final decision taken by the competent authority as to whether or not to grant development consent for a project. In compliance with the Aarhus Convention, the public concerned must be informed if it is revised.

Amendment 39

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

If the competent authority decides to grant development consent, it shall ensure that the development consent includes measures to monitor the significant adverse environmental effects, in order to assess the implementation and the expected effectiveness of mitigation and compensation measures, and to identify

If the competent authority decides to grant development consent, it shall ensure that the development consent includes measures to monitor the significant adverse environmental effects, ***during the implementation and management stages***, in order to assess the implementation and the expected effectiveness of mitigation

any unforeseeable adverse effects.

and compensation measures, and to identify any unforeseeable adverse effects.

Or. it

Justification

Should the competent authority decide to grant development consent for projects that have significant adverse effects on the environment, the monitoring of these should include all stages of the project, including those of implementation and management.

Amendment 40

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 2 – subparagraph 3

Text proposed by the Commission

The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the proposed project and the significance of its environmental effects.

Amendment

The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the proposed project and the significance of its environmental effects.
The results of the monitoring shall be notified to the competent authority and made available to the public.

Or. it

Justification

The public concerned must also be informed on the outcome of the monitoring to be carried out where the competent authority decides to grant consent for projects that have significant adverse effects on the environment.

Amendment 41

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 2 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

Where the outcome of the monitoring indicates the presence of unforeseen adverse effects, the developer is required to take corrective action in the form of additional mitigation and/or compensation measures, to remedy those effects. The measures proposed by the developer for such corrective action shall be made available to the public and approved by the competent authority, which shall ensure they are complied with.

Or. it

Justification

The introduction of monitoring into the new EIA directive is very important. To prevent this ex-post monitoring from being an end in itself, it is, however, necessary to take further measures and establish that, where the mitigation and compensation mechanisms are ineffective, the developer must take responsibility for further remedial action in order to correct any unforeseen adverse effects of the authorised project.

Amendment 42

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

Depending on the nature, complexity, location and size of the proposed project, the competent authority may extend that deadline by a further 3 months; in that case, the competent authority shall inform the developer of the reasons justifying the extension and of the date when its decision is expected.

Depending on the nature, complexity, location and size of the proposed project, the competent authority may, ***exceptionally***, extend that deadline by a further 3 months; in that case, the competent authority shall inform the developer, ***in writing***, of the reasons justifying the extension and of the date when its decision is expected.

Or. it

Justification

A clear determination of the time-frame is important to ensure legal certainty for all those involved in the procedure. It is therefore important to specify that any extension to the three-month term can be granted only in exceptional cases, where it is justified by the nature, complexity, location and size of the project, and that the reasons for the extension must be announced officially and transparently.

Amendment 43

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. If, within five years of the environmental impact assessment, a project has not been implemented, the information set out in the environmental assessment must be updated.

Or. it

Justification

The quality of an EIA is based on the reliability of the data collected during the procedure. As called for by the Commission in its report on the application and effectiveness of the EIA Directive of 23 July 2009 (COM(2009)378, section 3.2.2), the new paragraph seeks to establish a maximum duration of validity of the data collected during the environmental impact procedure.

Amendment 44

Proposal for a directive

Article 1 - point 9 - subpoint b

Directive 2011/92/EU

Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States may also decide to make available to the public the information referred to in paragraph 1, when the competent authority concludes its environmental impact assessment of the

3. Member States may also decide to make available to the public the information referred to in paragraph 1 ***before any decision has been taken as to the granting or refusal of development consent***, when

project.

the competent authority concludes its environmental impact assessment of the project.

Or. it

Justification

The amendment clarifies that Member States have the option, if they wish, to make public the information on impact assessments even before the adoption of the decision on the authorisation of the project.

Amendment 45

Proposal for a directive

Article 1 – point 9 a (new)

Directive 2011/92/EU

Article 10 – paragraph 1

Text proposed by the Commission

Amendment

(9a) Article 10 paragraph 1 is replaced by the following:

"The provisions of this Directive shall not affect the obligation on the competent authorities to respect the limitations imposed by national laws, regulations and administrative provisions and accepted legal practices with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest, provided that they comply with Directive 2003/4/EC."

Or. it

Justification

The provisions of this Directive, as regards access to information during the environmental impact assessment, need to be coordinated with the provisions of Directive 2003/4/EC on access to information, public participation in decision-making and access to justice in environmental matters.

Amendment 46

Proposal for a directive

Article 1 – point 9 b (new)

Directive 2011/92/EU

Article 10 a (new)

Text proposed by the Commission

Amendment

(9b) The following Article 10a is inserted:

"Article 10a

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive."

Or. it

Justification

Based on experience, to ensure the harmonised and effective application of the Directive, the legal systems of the Member States need to provide for effective and dissuasive penalties where national provisions are infringed, in particular with regard to cases of conflict of interest or corruption.

Amendment 47

Proposal for a directive

Article 2 – point 1 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [**DATE**] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a document explaining the relationship between them and this Directive.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [**Publications Office, please insert date: 24 months from the entry into force of this Directive**] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a document explaining the relationship between them and this Directive.

Justification

Given the complexity of the provisions laid down in this Directive, an adequate transposition time-frame of two years is necessary.

Amendment 48**Proposal for a directive
Article 3***Text proposed by the Commission*

Projects for which the request for development consent was introduced before *the date referred to in the first subparagraph of Article 2(1)* and for which the environmental *impact assessment* has not been *concluded* before that date shall be subject to the obligations referred to in Articles 3 to 11 of Directive 2011/92/EU as amended by this Directive.

Amendment

Projects for which the request for development consent was introduced before *[Publications Office, please insert date: 24 months from the entry into force of this Directive]* and for which the environmental *report referred to in Article 5(1) of Directive 2011/92/EU* has not been *completed and supplied to the competent authorities* before that date, shall be subject to the obligations referred to in Articles 3 to 11 of Directive 2011/92/EU as amended by this Directive.

Justification

In order to ensure legal certainty and avoid excessive burdens on operators, where an environmental impact assessment procedure is already at an advanced stage, with the environmental report already filed, it should be able to be concluded under the current law, without having to start all over again under the new rules.

Amendment 49**Proposal for a directive
Annex – point 12 a (new)**
Directive 2011/92/EU
Annex I – title*Text proposed by the Commission**Amendment*

(12a) In Annex I, the title is replaced by

the following:

**"PROJECTS REFERRED TO IN
ARTICLE 4(1) (PROJECTS SUBJECT
TO MANDATORY ENVIRONMENTAL
IMPACT ASSESSMENT)"**

Or. it

Justification

To make the text easier to read and enable it to be immediately understood, it is proposed to clarify, next to the relevant articles, the subject-matter of the Annex.

Amendment 50

Proposal for a directive

Annex – point 12 b (new)

Directive 2011/92/EU

Annex I – point 14 a (new) and point 14 b (new)

Text proposed by the Commission

Amendment

***(12b) In Annex I, the following points
(14a) and (14b) are inserted:***

***“14a. Exploration, evaluation and
extraction of crude oil and/or natural gas
trapped in gas-bearing strata of shale or
in other sedimentary rock formations of
equal or lesser permeability and porosity,
regardless of the amount extracted.***

***14b. Exploration and extraction of
natural gas from coal beds, regardless of
the amount extracted.***

Or. it

Justification

The current directive does not take account of the daily production levels of non-conventional hydrocarbons. This means that despite their environmental impact, the relevant projects are not subject to compulsory EIA. In accordance with the precautionary principle, and as requested by Parliament in its resolution of 21 November 2012, it is proposed that non-conventional hydrocarbons (shale gas and oil and 'tight gas' in the first paragraph, 'coal bed methane' in the second paragraph), be included in Annex I, so that the relevant projects are systematically made subject to EIA.

Amendment 51

Proposal for a directive
Annex – point 12 c (new)
Directive 2011/92/EU
Annex II – heading

Text proposed by the Commission

Amendment

(12c). The title of Annex II shall be replaced by:

"PROJECTS REFERRED TO IN ARTICLE 4(2) (PROJECTS SUBJECT TO ENVIRONMENTAL IMPACT ASSESSMENT AT THE DISCRETION OF THE MEMBER STATES)"

Or. it

Justification

To make the text easier to read and enable it to be immediately understood, it is proposed to clarify, next to the relevant articles, the subject-matter of the Annex.

Amendment 52

Proposal for a directive
Annex – point 13
Directive 2011/92/EU
Annex II – heading

Text proposed by the Commission

Amendment

ANNEX II.A – INFORMATION
REFERRED TO IN ARTICLE 4(3)

"ANNEX II.A – INFORMATION
REFERRED TO IN ARTICLE 4(3)
**(INFORMATION PROVIDED BY THE
DEVELOPER ON THE PROJECTS
LISTED IN ANNEX II)**"

Or. it

Justification

To make the text easier to read and enable it to be immediately understood, it is proposed to clarify, next to the relevant articles, the subject-matter of the Annex.

Amendment 53

Proposal for a directive

Annex – point 13

Directive 2011/92/EU

Annex II.A – paragraph 3 – introductory part

Text proposed by the Commission

3. A description of the likely significant effects of the proposed project on the environment **resulting from**:

Amendment

3. A description of the likely significant effects of the proposed project on the environment, **taking into consideration in particular**:

Or. it

Amendment 54

Proposal for a directive

Annex – point 13

Directive 2011/92/EU

Annex II.A – paragraph 3 – point -a (new)

Text proposed by the Commission

Amendment

(-a) the risks to the health of the population concerned;

Or. it

Justification

It would be advisable to supplement the information that the developer is required to provide for the preliminary screening procedure, to include the effects on human health. This same criterion, moreover, has also been inserted by the Commission in Annex III concerning the selection criteria which the competent authority has to take into account to determine whether the projects listed in Annex II should be subject to environmental impact assessment.

Amendment 55

Proposal for a directive

Annex – point 13

Directive 2011/92/EU

Annex II.A – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the effects on the landscape and cultural heritage;

Or. it

Justification

It would be advisable to supplement the information that the developer is required to provide for the preliminary screening procedure, to include the effects on the landscape and cultural heritage. These same criteria, moreover, have also been inserted by the Commission in Annex III concerning the selection criteria which the competent authority has to take into account to determine whether the projects listed in Annex II should be subject to environmental impact assessment.

Amendment 56

Proposal for a directive

Annex – point 13

Directive 2011/92/EU

Annex II.A - paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. An outline of the main alternatives studied by the developer and an indication of the main reasons for this choice, taking into account the environmental impact.

Or. it

Justification

The description, even if only an outline, of the main alternatives studied by the developer should be provided also at the initial, screening stage of the assessment, in order to provide the competent authority with full information concerning the project in question.

Amendment 57

Proposal for a directive

Annex – point 14

Directive 2011/92/EU

Annex III – heading

Text proposed by the Commission

Amendment

ANNEX III – SELECTION CRITERIA
REFERRED TO IN ARTICLE 4(4)

ANNEX III – SELECTION CRITERIA
REFERRED TO IN ARTICLE 4(4)
**(CRITERIA TO DETERMINE
WHETHER THE PROJECTS LISTED
IN ANNEX II SHOULD BE SUBJECT
TO ENVIRONMENTAL IMPACT
ASSESSMENT)**

Or. it

Justification

To make the text easier to read and enable it to be immediately understood, it is proposed to clarify, next to the relevant articles, the subject-matter of the Annex.

Amendment 58

Proposal for a directive

Annex – point 14

Directive 2011/92/EU

Annex III– paragraph 2 – point c – point v

Text proposed by the Commission

Amendment

(v) areas classified or protected under Member States' legislation; Natura 2000 areas designated by Member States pursuant to Directive 2009/147/EEC of the European Parliament or of the Council and Council Directive 92/43/EEC; areas protected by international conventions;

(v) areas classified, **subject to restrictions** or protected under Member States' legislation; Natura 2000 areas designated by Member States pursuant to Directive 2009/147/EEC of the European Parliament or of the Council and Council Directive 92/43/EEC; areas protected by international conventions;

Or. it

Justification

The amendment seeks to clarify that the areas in which the location of the projects should be evaluated with special care, for the purposes of the preliminary screening procedure, include areas that are subject to restrictions, i.e. subject to environmental constraints under national legislation – primarily so-called landscape constraints, but also hydrogeological ones, inter alia.

Amendment 59

Proposal for a directive

Annex – point 14

Directive 2011/92/EU

Annex IV - heading

Text proposed by the Commission

ANNEX IV – INFORMATION
REFERRED TO IN ARTICLE 5(1)

Amendment

ANNEX IV – INFORMATION
REFERRED TO IN ARTICLE 5(1)
**(INFORMATION WHICH THE
DEVELOPER IS REQUIRED TO
PROVIDE IN THE ENVIRONMENTAL
REPORT)**

Or. it

Justification

To make the text easier to read and enable it to be immediately understood, it is proposed to clarify, next to the relevant articles, the subject-matter of the Annex.

Amendment 60

Proposal for a directive

Annex – point 14

Directive 2011/92/EU

Annex IV – paragraph 3 – introductory part

Text proposed by the Commission

1. Description of the project, including in particular:

Amendment

1. Description of the project, **considered in its entirety**, including in particular:

Or. it

Amendment 61

Proposal for a directive

Annex – point 14

Directive 2011/92/EU

Annex IV – paragraph 8

Text proposed by the Commission

8. An assessment of the natural and man-made disaster risks and risk of accidents to which the project could be vulnerable and, where appropriate, a description of the measures envisaged to prevent such risks, as well as measures regarding preparedness for and response to emergencies (e.g. measures required under Directive **96/82/EC as amended**).

Amendment

8. An assessment of the natural and man-made disaster risks and risk of accidents to which the project could be vulnerable and, where appropriate, a description of the measures envisaged to prevent such risks, as well as measures regarding preparedness for and response to emergencies (e.g. measures required under Directive **2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC¹**).

1 OJ L 197, 24.7.2012, p.1.

Or. it

Justification

This amendment introduces an updated reference to the Seveso III Directive.

EXPLANATORY STATEMENT

While apparently modest, Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (EIA Directive) is actually the 'jewel in the crown' of EU environmental policy. Around 200 types of project fall within its scope – from the building of bridges, ports, motorways and landfill sites to the intensive rearing of poultry or pigs¹..

The EIA Directive establishes the simple yet fundamental principle of 'informed decisions': before granting development consent for public or private projects that are likely to have an impact on the environment, the competent authorities of the Member States are legally required to acquire all the information necessary in order to carry out an environmental impact assessment.

The Directive 2011/92/EU currently in force, while being of an essentially procedural nature, aims to ensure the environmental sustainability of projects that fall within its scope. Those projects are divided into two categories: those for which, in view of their specific characteristics, an EIA is mandatory (Annex I) and those which have to undergo a project screening procedure (Annex II).

In its 28 years of application, this legislation has been relatively successful as regards the harmonisation of the principles of environmental assessment at EU level, but has undergone only three minor amendments², while the political, legal and technical background has evolved considerably. Meanwhile, a number of weaknesses have been identified, which have given rise to a large number of legal disputes, both nationally and before the EU Court of Justice. Lastly, in recent years, the Court has clarified the interpretation of a number of provisions, for instance by specifying that demolitions must fall within the definition of a 'project' (Case C-50/09).

To remedy the problems identified and to bring the text of the directive into line with the new policy priorities of the EU, such as the Soil Thematic Strategy, the Roadmap to a Resource-Efficient Europe and the Europe 2020 strategy, the Commission has drawn up this proposal for a revised EIA Directive.

In keeping with the EU's priorities, the proposal includes biodiversity, the use of natural resources, climate change and natural and man-made disaster risks among the factors in relation to which the impact of a project has to be assessed. The proposal also calls for projects to be considered by taking into account any cumulation with other projects and activities, to avoid the damaging practice of splitting the work into separate lots in order to reduce its environmental impact.

As regards the screening procedure, the proposal seeks to ensure that only those projects which have a significant impact on the environment are subject to EIA, on the basis of

¹ According to the Commission's impact assessment, each year in the EU 15 000-26 000 EIAs, 27 000-33 800 screening procedures and 1370-3380 positive screenings take place.

² The original Directive 85/337/EEC was amended by Directives 97/11/EC, 2003/35/EC and 2009/31/EC and codified by Directive 2011/92/EU.

specific information which the developer must supply to the competent authority (Annex II.A). The Commission also proposes expanding the list of selection criteria on which screening decisions are based and fixing the time limit for the adoption of a decision at three months (which may be extended by another three months).

With regard to the quality of information, the Commission proposes that the competent authorities, in consultation with the developer, determine the scope and level of detail of the information to be included in the environmental report (the so-called scoping phase). In addition, the proposal introduces the mandatory assessment of reasonable alternatives to a project and a post-EIA monitoring requirement where a project has significant adverse effects on the environment.

As far as administrative simplification is concerned, with the aim of establishing a clear time-frame for all the stages of EIA, the Commission proposes establishing minimum and maximum periods of time for public consultation and for the final decision, and introducing an EIA 'one-stop shop' in the Member States, to coordinate the procedure with any environmental assessments required by other legislation, such as the directive on industrial emissions, the Water Framework Directive or the Habitats Directive.

Your rapporteur is convinced of the need to pursue a truly sustainable model of development throughout the Union and gives his full and firm support to the Commission proposal. The proposed amendments are thus essentially designed to enhance the proposal, by including some measures aiming to make it even more effective and easier to transpose into national legislation and to help it to achieve its environmental protection objectives more effectively. The key issues addressed in the proposed amendments are summarised below.

Public involvement

In compliance with the Aarhus Convention, the proposal seeks to strengthen the role of the public concerned at all stages of the procedure. Good governance calls for dialogue between all parties involved and a clear and transparent procedure that encourages the timely awareness of the public concerned that an important project might be executed. This potentially strengthens support for decisions taken and reduces the number and cost of the legal disputes that systematically occur in the Member States where there is no genuine consensus over a project.

Conflicts of interest

The credibility of the entire EIA procedure is undermined unless there are clear rules to prevent the serious issue of conflicts of interest. Your rapporteur has personally been able to note that, in some cases, in spite of the formal separation between competent authority and developer, in particular where the latter is a public entity, there is often an improper merging of the two parties, which adversely affects the objectivity of the judgment. The absolute independence of the competent authority from the developer must therefore be ensured.

Corrective action

Your rapporteur fully endorses the Commission's proposal with regard to the ex-post

monitoring of projects that have significant adverse effects on the environment, but takes the view that it is absolutely necessary to supplement it with a requirement for the developer to take the appropriate corrective action where monitoring shows that the mitigation and compensation measures required for an authorised project are not effective.

Drawing up and verification of environmental reports

Your rapporteur is of the view, first and foremost, that it is vital to ensure that environmental reports are verified by experts who are totally independent and have appropriate technical competence in environmental matters. As regards the system of accreditation of experts proposed by the Commission, whilst agreeing with the aim of ensuring the quality of monitoring, your rapporteur believes that such a system would be extremely difficult for the Member States to implement and therefore proposes that it be abolished.

Legal certainty

In order to ensure the necessary legal certainty, your rapporteur proposes including a clear definition of biodiversity, based on the UN Convention on Biological Diversity, specifying that it includes all species of flora and fauna and that derogations from the time-frames may be granted only in exceptional cases. With regard to the entry into force of the new EIA rules your rapporteur takes the view that it should be ensured that where the procedure is already at an advanced stage (with the environmental report already filed), it should be possible to complete the procedure under the current legislation.

Shale gas

Your rapporteur considers it necessary, in accordance with the precautionary principle and as called for by Parliament in its resolution of 21 November 2012 on the environmental impacts of shale gas and shale oil extraction activities, to include so-called non-conventional hydrocarbons in Annex I to the Directive, so that the relevant exploration and extraction projects are systematically required to undergo EIA. The production thresholds laid down in the current Directive do not, in fact, take into account daily production levels of these gases and oils, which means that such projects are not subject to mandatory EIA.

* * *

Achieving a true 'green economy' also means ensuring the sustainability of projects to be completed in our territory, in addition to designing them and implementing them in accordance with their impact on resource efficiency, climate change and loss of biodiversity, in particular with regard to large infrastructure projects.

Adopting the new EIA Directive as soon as possible means following up words with deeds and equipping the European Union with an operational tool that is vital in order to meet the global challenges of the 21st century.

* * *

Your rapporteur has welcomed the suggestions received from the shadow rapporteurs and colleagues in Parliament. He and his staff have received the positions of: AK EUROPA, WKÖ, Justice and Environment, BUSINESSEUROPE, UEPC, EWEA, EDF, EDISON, OGP, EURELECTRIC and NEEIP and have had a series of meetings with representatives of the Lithuanian and Netherlands governments, the rapporteurs of the Committee of the Regions and the Economic and Social Committee, representatives of organisations such as Friends of the Earth Europe, Confindustria, ENEL, MEDEF, Birdlife International, EPF, Eurochambres, IMA-Europe and TERNA. Your rapporteur wishes to thank in particular Mr Matteo Ceruti, lawyer, Mr Stefano Lenzi, of WWF Italy, and Mr Marco Stevanin. The rapporteur is solely responsible for the proposals that he has chosen to include in his draft report.